

**Bountiful City**  
**Administrative Committee Minutes**  
**March 7, 2011**  
**5:00 P.M.**

Present:       Acting Chairman – Marc Knight; Committee Member – Lloyd Cheney;  
                  Committee Member – Dave Badham; Assistant Planner - Dustin Wright; and  
                  Recording Secretary – Darlene Baetz

Excused:       Chairman – Aric Jensen

1. Acting Chairman Knight opened the meeting at 5:03 pm and had staff present introduce themselves.
2. Consider approval of minutes for February 28, 2011. Mr. Badham made a motion to approve the minutes with the changes as noted. Mr. Cheney seconded the motion. Voting was 3-0 in favor.
3. Consider a Conditional Use Permit application to allow for a home occupation Remodeling Contractor business at 1495 S. Orchard Dr., Nathan Halling, applicant.

Mr. Halling was present. Mr. Wright presented the staff report.

The applicant's home is in a Residential Single-Family R-4 zone. He is a contractor without employees at the moment. Materials are sent to job site and not kept at the home. He will store his trailers at the home in the backyard on a cement driveway when they can't be stored at the job site. He would like to have signage on the truck and the trailers. He only uses one room in the home as an office for his computer and files.

Based on the findings, the staff recommends to the Committee that they approve a Conditional Use Permit with the conditions that the applicant keeps a current home business license and operating his business as stated. He will comply with the city ordinances for Conditional Use Permits concerning a home occupation business, trailers are to be kept in the rear yard on a concrete surface when not being used and not on the street and the permit will be for this individual at this site and is non-transferable.

Acting Chairman Knight opened the public hearing. The hearing was closed without comment.

Staff discussed the transparency of the business in a residential area and the growth of a new company. Discussions about the current concrete pad and the future extension of the concrete driveway pad.

Mr. Cheney made a motion to approve the Conditional Use Permit for a home occupation Lawn Care business at 1495 S. Orchard Dr., Nathan Halling, with the conditions outlined by staff. Mr. Badham seconded the motion. Voting passed 3-0 in favor.

4. **PUBLIC HEARING – CONTINUED FROM FEB 28, 2011** - Consider a Variance for retaining walls in excess of 10' in height and disturbing ground over 30% at 4297 Summerwood Dr., Karen Scherbel and Curt Schaefermeyer, applicants.

Acting Chairman Knight with the consent of the applicant, moved this item to the end of the agenda.

5. Consider an approval of a Conditional Use Permit letter, in written form for a Home Occupation lawn care business at 1285 N. 200 W., Lonnn Buckley, applicant.

Item tabled until next meeting. Addition of staff condition needed for letter.

6. Consider an approval of a Conditional Use Permit letter, in written form for a Home Occupation lawn care business at 136 E. 1600 S., Jae Horrocks, applicant.

Mr. Cheney made a motion to approve the Conditional Use Permit letter for a Home Occupation for lawn care business at 136 E. 1600 S., Jae Horrocks, applicant. Mr. Badham seconded the motion. Voting was 3-0 in favor.

7. Consider an approval of a Conditional Use Permit letter, in written form, for solar panels at 426 S. Davis Blvd, Blake and Diana Brown, applicants.

Mr. Cheney made a motion to approve the Conditional Use Permit letter for solar panels at 426 S. Davis Blvd, Blake and Diana Brown, applicants. Mr. Badham seconded the motion. Voting was 3-0 in favor.

8. Consider an approval of a Conditional Use Permit letter, in written form, for solar panels at 1021 S. 1600 E., Jeremy and Melissa Terry, applicants.

Mr. Cheney made a motion to approve the Conditional Use Permit letter for solar panels at 1021 S. 1600 E., Jeremy and Melissa Terry, applicants. Mr. Badham seconded the motion. Voting was 3-0 in favor.

9. Consider an approval of a Conditional Use Permit letter, in written form, for solar panels at 1367 Skyline Dr., Arlyn and Capri Robison, applicants.

Item tabled until next meeting. Addition of staff condition needed for letter.

4. **PUBLIC HEARING – CONTINUED** - Consider a Variance for retaining walls in excess of 10' in height and disturbing ground over 30% at 4297 Summerwood Dr., Karen Scherbel and Curt Schaefermeyer, applicants.

Mr. Rick Scherbel, Mrs. Karen Scherbel and Mr. Curt Schaefermeyer were present. Mr. Wright presented the staff report.

The property is located in Residential Foothill R-F zone. In 2006 plans were submitted to develop a home on the property. These plans were approved and construction began but was never completed. Ownership has changed and new plans have been submitted to complete construction. The applicant is requesting a variance from §14-4-104.A to build on slopes over 30% and from §14-4-117.D.9 to build retaining walls exceeding 10 ft. in height because of the configuration of the lot and its lack of an adequate building pad due to 30% slopes.

The Committee should consider the facts presented to determine if a variance is needed and that it meets all the requirements in State Code. A site plan does not need to be agreed upon by the Committee.

**Utah State Code 10-9a-702/17-27a-702 Variances.**

**(2) (a) The appeal authority may grant a variance only if:**

**(i) Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;**

- Literal enforcement of the ordinance would cause an unreasonable hardship by limiting the applicant's ability to construct retaining walls that are needed to final the home occupancy because of the configuration of the lot and its lack of an adequate building pad due to 30%+ slopes.

**(ii) There are special circumstances attached to the property that do not generally apply to other properties in the same zone;**

- Steep land is common in this zone, however, this building lot does not have an adequate building area like the other lots in the zone because the 30%+ slopes are scattered throughout the property. The location of these slopes to the existing home also creates a need for retaining wall that will exceed 10'. 10'+ walls will help to prevent more encroachment in the hillside that would be caused by building shorter walls that would be terraced farther apart into the undisturbed hillside. (See Summerwood Subdivision Phase 1 Drainage Grading & Utility Plan).

**(iii) Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;**

- Not being able to build on a reasonably sized building pad due to the 30%+ slopes would deny the applicant access to an essential property right enjoyed by others. Not being able to build adequate retaining walls will deny occupancy to be granted.

**(iv) The variance will not substantially affect the general plan and will not be contrary to the public interest;**

- The location of the home will hide part of the walls from the street-view. Allowing retaining walls to exceed 10', where needed, will help limit the amount of disturbance of the remaining hillside and help protect the character of the neighborhood.

**(v) The spirit of the land use ordinance is observed and substantial justice done.**

- The spirit of the land use ordinance is to protect the natural scenic character of the foothill areas and minimize environmental hazards.
- There has already been a disturbance of the hillside during construction of the home. Constructing the retaining walls at the minimum required distance from the principal structure and not extending further than structurally needed into the hillside would be the least intrusive solution necessary to afford relief from the hardship. Retaining walls should not be taller than needed resulting in the least modification of the Ordinance at hand.
- Any additions to the home or accessory structures should be located within the existing limit of disturbance to avoid becoming a self-imposed hardship.

Based on the new findings, Staff recommends granting a variance from §14-4-104.A to build on slopes over 30% and from §14-4-117.D.9 to build retaining walls exceeding 10 ft. in height. It is also recommended as conditions to the variance that a “limit of disturbance line” that will include areas of 30%+ slopes should be established by this Committee where development can occur on the property in the future. The height and location of the retaining walls should be discussed and approved with the Planning and Engineering Departments so that the variance will be the least intrusive solution to the hardship. Other than the current existing structure, retaining walls shall be the only construction in 30%+ areas for this variance. The variance shall be recorded with the deed of the property.

Acting Chairman Knight re-opened the public hearing. The hearing was closed without additional comment.

Mr. Cheney discussed the error made on the original survey for this property. The original surveys were taken with aerial photography which is not as accurate as ground survey. Staff compares the maps and introduces the new Lidar maps. Staff discussed the wall height, ground extension and setbacks for the walls. Plans were discussed for an attached garage or a detached garage with the possibility of the wall being part of the retaining wall.

Mr. Badham made a motion to approve a variance for retaining walls exceeding ten (10) feet in height and to disturb slopes exceeding thirty percent slope (30%) based on the findings in the staff report, with the following conditions:

1. The rear yard retaining wall, near the north east corner of the house may consist of up to a three tiered retaining wall system, with neither of the lower two walls to exceed twelve (12) feet in height, and the third wall not to exceed 6 feet in height. The location of the retaining walls should be modified to meet the minimum fifteen (15) foot setback requirement from the structure and to minimize disturbance to existing slopes. The final heights of the retaining walls should also be selected to minimize disturbance to the existing slopes.
2. Near the south east corner of the structure, either an attached or detached garage may be proposed by the applicant so long as the construction of the proposed structure or associated retaining walls does not extend beyond the existing disturbed area.
3. The applicant will submit revised plans to the Bountiful City Engineering and Planning Departments for approval.

Acting Chairman Knight seconded the motion. Voting was 2-0 in favor, with Mr. Cheney voting against.

Acting Chairman Knight determined that there were no other items to discuss. Mr. Badham made a motion to adjourn and Mr. Cheney seconded the motion. Voting was 3-0 in favor.

The meeting adjourned at 6:28 p.m.